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COSTA RICA AND NEW GRANADA.

AN INQUIRY

INTO THE

QUESTION OF BOUNDARIES,

WHICH IS PENDING BETWEEN THE

TWO REPUBLICS AFORESAID:

**WITH A MAP FOR THE BETTER UNDERSTANDING OF THE SUB-
JECT, AND DOCUMENTARY EVIDENCE IN SUPPORT**

OF THE

ANCIENT TITLES OF COSTA RICA :

TO WHICH AN APPENDIX HAS BEEN ADDED

CONTAINING A BRIEF ACCOUNT OF THE QUESTION BETWEEN

COSTA RICA AND NICARAGUA,

BY FELIPE MOLINA,

**ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY OF COSTA RICA AND
GUATEMALA, NEAR THE GOVERNMENT OF THE UNITED STATES.**

**WASHINGTON:
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1853.**

P R E F A C E .

It is certainly a great misfortune for a State to be involved in disputes with its neighbors ; especially when the latter happen to be comparatively more powerful or when they are not very considerate in their dealings. The little Republic of Costa Rica finds herself in this disagreeable, and on her part, unsought for predicament, having boundary questions, both with New Granada on the South, and with Nicaragua on the North.

The main object of the following pages, was originally to elucidate these questions with regard to the former ; but on further reflection, it seemed advisable to subjoin a brief notice, in reference to the latter, in order to present to the reader, in a single pamphlet, a condensed account of all that pertains to Costa Rica.

But before entering into the subject, we beg leave to offer a few remarks :

The cause of Costa Rica has hitherto been laboring under great disadvantages before the American public, in consequence of the incorrect and extensively circulated statements of biased writers. Her claims have never obtained a dispassionate consideration, owing to the false impression, that that Republic was protected by Great Britain.

But if such were the case, it is obvious that Costa Rica would not have been under the necessity, of solicit-

ing the friendly mediation of the United States for the settlement of her difficulties with Nicaragua, as she has been doing for the last three years.

That Costa Rica is on good terms with Great Britain and has been spared the contentions that other Central American Governments have had with that Power, is a fact very easily explained. Possessing, as she does possess, an efficient organization, Costa Rica has exerted herself to meet all her public engagements in a prompt and honorable manner. After having discharged her share of the debt contracted by Central America with British Bondholders, and after having settled, on her part, other liabilities, belonging to the late Federation: being entirely free from foreign creditors or claimants, she has had the good fortune to avoid every cause of misunderstanding with other nations.

Forced into a separate political existence, through the unwillingness of the other States to maintain the old confederacy, and their inability to frame a new one, she has, nevertheless, endeavored to arrange amicably all the points at issue with New Granada and Nicaragua, by offering to the Governments of those countries, respectively, very liberal compromises. But her overtures, not having been accepted, Costa Rica is bound to insist on the maintenance of her claims, which it will be seen on examination, are not mere questions of abstract rights, but of positive and vital importance to the security and developement of the Country.

Entertaining, however, a full confidence in the validity

and paramount force of her titles, and being duly impressed with the wisdom and impartiality of the American Government, Costa Rica has been, and is prepared to submit the decision of all the pending questions, on either side, to the sole arbitration of the United States.

This proposal has been eluded on the part of Nicaragua, who pretended to confine the arbitration to some of the disputed points only, and to take others for granted, in favor of that State, as not liable to be questioned.

The representative of New Granada, in this country, has given a similar answer to the Representative of Costa Rica, when the latter invited him to appeal to the judgment of the United States, alleging that the claims of Costa Rica are groundless and the rights of New Granada indisputable.

We shall not close these introductory observations without stating, that Costa Rica has been willing to facilitate the enterprise of the Ship Canal by granting every thing in her power that the American Government has deemed advisable to demand for the accomplishment of that great object.

Let these facts speak for themselves.

And let it be borne in mind, that Costa Rica is particularly entitled to the sympathies of all civilized nations, as an industrious, peaceful, rising community, remarkable for the morality of her people and the liberality of her institutions, where perfect freedom of worship is actually established, and where settlers from any quarter of the world, are sure to meet with a hearty welcome.

ERRATA.

Page 8, line 21, for "as in fact it was then united" read, "in the same condition she then was."

" 8 " 35, for "Venezuela" read "Veragua."

" 10 " 24, for "terminus" read "termini."

" 10 " 35, for "terminate at the junction of the terminus," read, "meet the extreme end."

" 10 " 40, for "side Cape Camaron" read "side of Cape Camaron."

" 11 " 30, for "source read "mouth."

" 15 " 13, for "Borica" read "Boruca."

" 15 " 30, for "is" read "as."

" 20 " 22, for "to which the Vice Royship of New Granada was intended to be transferred" read "which was intended to be transferred to the Vice Royship of New Granada."

" 22 " 26 for "were" read "are."

" 38 " 14 for "the territory" read "the territory extending."

" 38 " 28 for "terminus" read "termini."

" 38 " 38 for "terminate at the junction of the terminus" read "meet the extreme end."

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COSTA RICA AND NEW GRANADA.

AN INQUIRY INTO THE QUESTION OF BOUNDARIES.

A Company having been formed in Paris and London, under the auspices of the Republic of Costa Rica, with the object of colonizing certain lands on the South Sea Coast, belonging to said Republic; to which company, there has likewise been granted the privilege of opening a road from the Bay of Boca-Toro to the Port of Golfo Dolce, a lively discussion has arisen between the aforesaid company and Senor Montoya, Vice Consul of New Granada, in said city of London, relative to the sovereignty of Boca Toro, which, the latter maintains, belongs to the nation he represents, and with regard to the dividing line, which is to separate the territories of the two countries.

It appears that there does also exist, in London another association, called "Chiriqui Company," created under the sanction of the Provincial Deputation of Veragua, with a view of establishing an interoceanic communication, between Boca Toro and Chiriqui. The opposition of interests between the Costa Rica company and the company of Chiriqui, has naturally given rise to discussion on the part of the press, with reference to the respective rights or pretensions of the State, which each writer represents.

Among the publications that have been brought to light, it is proper to mention a pamphlet of twenty-four pages, published with the approbation of the vice consul Montoya, which, in our opinion, contains all the arguments that can be adduced on the subject, in favor of New Granada.

Having fully investigated these arguments, we now propose to elucidate the question with calmness and with judgment, in order to vindicate the rights of Costa Rica, endeavoring indeed, not to imitate the style, in which the pamphlet alluded to, is written, which is so little decorous and unsuited to the subject.

In performing this work, we will proceed with that candor and

good faith which ought to prevail in the examination of any question that may arise between brotherly nations, who acknowledge the same origin, are bound by the same interests, and whom probably the same future, for good or for evil, awaits.

In order to avoid confusions, we will begin by apprising the reader, that Costa Rica, under Spanish rule, was one of the provinces, which constituted the captain generalship, (*Capitania General*,) or let us say, Kingdom of Guatemala. The latter, after the independence, assumed the name of Central American Confederacy, and then Costa Rica was converted into one of the States, composing said confederacy, which having been dissolved in a few years, Costa Rica again assumed the rank she now holds, of an entirely independent nation. Here we find one of the contestants: Costa Rica with its descent from Central America and Guatemala.

New Granada during the colonial period, was designated by the title of vice Royalty of Santa Fé, or new Kingdom of Granada, in which had been included the government of the district, called Tierra Firme, or Audiencia of the Isthmus of Panama; among the provinces of which was that of Veragua, comprising the small territory of Chiriqui. Having broken the ties which bound her to the mother country, New Granada formed a union, as in fact it was then united with Venezuela and Quito (Ecuador,) to constitute the great Republic of Columbia. And as soon as the latter had ceased to exist, dividing itself into as many members as had contributed to its formation, New Granada resumed her former individuality, organizing herself into a separate Republic, such as it exists at the present day.

Here we meet the other contestant: New Granada with its descent from Columbia and the ancient vice-royalty of Santa Fé, or the districts more immediately connected with the question, Tierra Firme—Veragua—Chiriqui.

Both States were shoots of the same trunk. Spain which discovered and colonized simultaneously the country at present occupied by each of them.

The conterminous territories were always, and are now, Costa Rica and Venezuela, or the respective districts thereof, most adjacent, Talamanca and Chiriqui.

This being established, it appears natural to inquire, in the first place, what were, according to the ordinances of Spain, the bounda-

ries assigned to her two dependencies, the Captain Generalship of Guatemala, (Costa Rica) on the one side and the vice royalty of New Granada, (Tierra Firme—Veragua) on the other; it being necessary to go back, in this examination, to a period anterior to the year 1803, at which time, it is alleged, an order of the court altered the condition of the ancient Jurisdictions.

In the second place, it will be well to consider, what value is to be attached to the aforesaid Royal order of 1803—what interpretation is to be given to it, and what are the consequences that have resulted therefrom.

We will next proceed to examine what was the condition of the possessions and rights of each party, at the time when they achieved their emancipation from the mother country; what effect was produced by the treaty concluded between the late Republic of Colombia, of which New Granada was an integral part and the former confederacy of Central America, of which Costa Rica was a member; what is the course which has been pursued in this matter, and what is the present condition of things. For the better elucidation of the subject, and agreeably to the plan we have traced out, we will divide this inquiry into several chapters :

CHAPTER I.

What were the boundaries which separated the Kingdom of Guatemala from the Vice Royalty of Santa Fé, or rather New Granada previously to the year 1803? In order to ascertain this point, it is evident that the sources where information must be sought, are,

- 1st. The laws and decrees of the Spanish Government.
- 2nd. The historical accounts of the discovery, conquest, and settlement of the frontier provinces.
- 3rd. The works of historians generally, and
- 4th. The geographical maps and charts.

It is also clear that the relative value or authority of these different kinds of proof, must be estimated in the same order in which we have enumerated them, and that none of them can counterbalance, in point of force, the authentic decrees of the Supreme power of the nation, to which both colonies owe their simultaneous foundation.

It is a fact much to be lamented, that there is not to be found, either in the Recopilation of the Indies, or in any other place, a law prescribing definitely the line by which the jurisdiction of the Audience* of Tierra Firme, ought to have been separated from the jurisdiction of the Audience of Guatemala.

In treating of each of said Audiences, the recopilated laws simply state, that the territorial jurisdiction of the one is limited by that of the other, on one of the four cardinal points of the horizon, therein mentioned.

But fortunately, the titles granted to the first Governors of Costa Rica, designate with such precision, the limits of that province, which was the only one appertaining to the Audience of Guatemala, coterminous with Tierra Firme, that the deficiency in the laws above quoted, is completely remedied.

In fact, the Spanish crown had scarcely began to organize the government of its numberless possessions on the American Continent, when the government of New Cartago or Costa Rica, was established in favor of Diego Gutierrez, to whom a title was delivered, dated at Madrid, the 29th of November, 1540, which reads as follows :

“ In the first place I give you permission and power to conquer and
 “ and to settle for us, and in our name, and that of the Royal Crown of
 “ Castille the land which remains to us in said province of Vera-
 “ gua: to begin at the terminus of the twenty-five square leagues
 “ which we have granted to Admiral Don Luis Colon, towards the
 “ west, which said twenty-five leagues begin from the *River Belen*
 “ inclusive, extending in a parallel line as far as the Bay of Carabaro, and
 “ what may be wanting to make up the complement of the twenty-
 “ five leagues aforesaid, will have to be measured higher up of said Bay
 “ by parallel as aforesaid, and where said twenty-five leagues terminate,
 “ there will commence other twenty-five by a meridian ——— North
 “ South; and a like number of leagues to commence from *River Belen*
 “ by said meridian of said North South and where said twenty-five
 “ leagues terminate there will begin another twenty-five, which will have
 “ to be measured by parallel until they terminate at the junction of the ter-
 “ minus, of the above mentioned twenty-five leagues, which had to be
 “ measured further up of the Bay of Carabaro; so that, from the point
 “ where the aforesaid twenty-five square leagues terminate, measured in
 “ the manner above indicated, your work of conquest and settlement will
 “ commence ending at Rio Grande, towards the West, on the other side
 “ Cape Carnaron, it being understood that the shores of said river in the

* Audiencia—Audience—A high court of justice—a colony or government subject to a high court.

“direction of Honduras remain within the jurisdiction of said province of Honduras, and in the same manner, if there should be on said river any islands inhabited or to be inhabited by Indians, and the same should not have been conquered and peopled by Spaniards, you are at liberty to conquer them; and provided that the navigation fisheries and other advantages of said river be common to all; and in the same manner provided that you do not approach within fifteen leagues of the lake of Nicaragua; inasmuch as these fifteen leagues with said lake, must remain and do remain within the jurisdiction of Nicaragua: but the navigation and fisheries of what remains to you in said river, and the aforesaid fifteen leagues and lake which remain within the jurisdiction of Nicaragua, must be common to all; and we likewise give you permission to take possession of and to people such Islands as are to be found on the surface of said region of country on the northern sea, provided that you do not penetrate beyond the borders or boundaries of the province of Nicaragua, nor into the other provinces that have been committed to the care of other governors, nor any place that has been peopled or distributed by any other governor whatever.”

We also have on hand, the title granted to Don Luis Colon, grandson of the discoverer, conferring on him the Duchy of Veragua. It is dated January, the 19th, 1537 and the demarkation made therein of the lands granted, is word for word, in the same terms, as those used in the grant to Gutierrez. It will be seen that in drawing up the second, the previous one was kept in view.

A few years later, in 1574, another title dated at Aranjuez, February the 18th, was issued by King Philip the second, appointing Don Diego de Artieda and Chirinos, Governor and Captain General of the Province of Costa Rica, and assigning to him as the limits of his jurisdiction, from sea to sea in latitude or breadth; and from the source of the Desaguadero, outlet, (river San Juan) which is on the side of Nicaragua, as far as the province of Veragua, in longitude or length, on the side of the Atlantic; and from the confines of Nicaragua, in the direction of Nicoya, up to the valleys of Chiriqui, in longitude, on the south sea side.”

The boundaries thus laid down in the royal decrees of 540 and 574, are very clear and positive, and leave nothing to desire. To the north, the position of the river Belen, which is the initial point, being ascertained, all that is wanting is to mark, on any map, a square of 25 leagues, which was reserved for Admiral Colon. This done, any one may see, that the Bay of Boca Toro, with all its islands and coves, is outside of said square, and consequently, that it belonged, by right, to the jurisdiction of the Governors of Costa Rica,

in conformity with the original title of that province ; even if the grant made to Admiral Colon had been in force, which, as it is well known, was subsequently revoked.

To the south, the limits designated, were the *valleys of Chiriqui*, the situation of which, is also known ; so that, from the beginning, the jurisdiction of Costa Rica was perfectly defined in trusty and solemn documents, emanating from the sovereign, whose decrees, our antagonists ought to respect, unless they can produce other titles of a similar character.

None such, have, up to this time, been brought to our knowledge. Neither in the archives of the mother country, nor in the official acts of the Government of Colombia, or that of New Granada, which bear upon the subject, nor in the copious dissertations of the Granadian press, no where have we been able to find the least trace of a royal decree, being either at variance with, or a modification of those already quoted, establishing in favor of Veragua, dividing lines, other than those which are laid down in said decrees. If such could be shown to us, we would receive it with due deference.

The only one we have been able to discover, is a Royal Decree, dated January 21, 1556, granting permission to the city of Nata to establish settlements on the lands of Colon, re-annexed to the crown ; a decree which proves two things : in the first place, that by that time, the title of the family of the Great Admiral to the ownership of said lands, had become extinct : secondly, that by the same fact, the limitation imposed upon the Governors of Costa Rica, not to extend their conquests to the lands alluded to, was no longer in force, and that the door was thrown open to them, in order that they might extend their jurisdiction as far as there were to be found vacant lands to settle, or Indians to subdue. We dwell upon this circumstance, in order to show that we have thoroughly examined into the matter, although we do not consider the investigation of this point necessary. It is sufficient for our purpose to demonstrate, that the boundaries assigned to Gutierrez and to Don Diego de Artieda, must be considered as still in force.

Here we might likewise quote the famous Royal order of 1803, (its value to be inquired into hereafter,) as another important document in favor of Costa Rica. According to this order, it ought to be inferred that the jurisdiction of the Captain General of Guate-

mala, extended, during his time, as far as the Chagres river, as it was probably the case. Nevertheless, in order to simplify the question, we will throw aside this hypothesis, and confine ourselves to the argument, that the landmarks originally assigned to the Province of Costa Rica, with reference to Veragua, were never altered, either in fact or by law, during the rule of Spain.

They would have been so, in fact, if the conquests and settlements of the Governors of Panama or of Veragua, had been pushed beyond those boundaries, which never did occur. They would have been so in law, if a new line of demarkation had been ordered to be drawn by the mother country ; but of this there is not the slightest indication to be found either.

Passing from the examination of the gubernatorial acts, which, in a case like this, must be looked upon as affording the most reliable data, to the investigation of the annals relating to the conquest and settlement of the frontier provinces of Veragua and Costa Rica, it will be observed at once, from the historical records of the latter, consisting in official documents, which are preserved in her own archives, and in those of the Peninsula, that for the period of two centuries, the original jurisdictional arrangement remained unimpaired. Consequently the Governors of Costa Rica materially extended and exercised their authority to the utmost verge of the confines of Veragua, subduing the tribes of Talamanca and various others, that inhabited those localities, both on the continent, and in the islands of Boca Toro : and founding there sundry additional settlements ; by which achievements, they perfected the titles which had been conferred upon them by Royal letters patent, with the right of first occupancy.

There are proofs in existence, that as early as the year 1601, the Governors of Costa Rica, undertook, for the first time, the subjugation of those savages, and laid the foundation of a city, which they called *Concepcion*, on the banks of the river *de la Estrella*, one of those that empty themselves into the Bay of Caribaro, which, in latter times, has received the name of Lake Chiriqui.

We see by a memorial sent to his Majesty in 1652, by Don Juan Fernandez de Salinas y de la Cerda, then Governor of Cosa Rica, that in that year, the question of conquering and pacifying Talamanca was again agitated, and in the course of the statement, a description

is given of the territory of Costa Rica, which says that "it consists of and runs from the confines of Nicaragua, on the north sea down to the *Escudo de Veragua*, and on the south sea, from the district of Nicoya down to the *Plains of Chiriqui*."

It was not, however, until the year 1659, that Don Rodrigo Arias Maldonado, who had superseded Salinas, in the command of the Province, was enabled to carry out the projects of his predecessor. It appears that during that year, said Don Rodrigo embarked at Matina, explored all the coast as far as Boca del Drago and Boca del Toro; visited the adjacent islands, took possession of the same, and subdued the Indians who inhabited them. During the following years he continued his work of conquest by land, and founded a great many settlements; and, as a reward for these services, he had the title of Marquis of Talamanca conferred upon him, which was the name of that district. The historian Juarros, in the chapter where he treats of the Province of Talamanca, alludes to the doings of Maldonado, and gives a detailed account of the results of his conquest; but if the authority of that writer is not considered sufficient, we can produce other documentary evidence, which has been preserved in the archives of Spain.

Among other interesting documents which may be inspected in that quarter, there will also be found an extensive report presented to the court in 1719, by Don Diego de la Haya, another Governor of Costa Rica,—giving an account of the condition of the Province; De la Haya devotes several paragraphs of comment upon the pacification of Talamanca, stating that the Indians of that name, occupied the territory comprised between the Bay of Boca Toro and Golfo Dolce: that his predecessors in command, had conquered them, founding the city of Concepcion on the river de la Estrella, and other settlements, but that in the year 1709, the Indians had risen in rebellion, abandoning the settlements and taking to the woods. De la Haya says "that in some places, the extent or breadth of Costa Rica, from sea to sea, did not exceed twenty leagues," which can only allude to the Isthmus between Boca Toro, and the Plains of Chiriqui. In another place he writes, "The Province of Talamanca is a continuation of this (Costa Rica) to the eastward. In this part of the coast, are to be found the Bays of Boca Toro and Almirante."

In the Judicial decrees having reference to the rising of the Tala-

manca and other tribes of Indians, whom Señor Don Lorenzo Antonio de Granda y Valvin undertook, in 1710, to bring once more into subjection, and to chastise, it is repeatedly stated, that one of the rebellious tribes inhabited the Island of Tojar, and as there is no island to be found westward of the Great Bay of Boca Toro, it is inevitably inferred, that by island of Tojar, was meant some of those islands which are situated within the Bay or the Island of Escudo itself. Hence it follows, that if said island was occupied by a people under the jurisdiction of the government of Costa Rica, the latter was in possession of at least a considerable portion of the Bay.

Governor Grenda y Valvin, writing to the Captain General of Guatemala, from Bornca, under date of February 28, 1710, says among other things, what follows:

"I beg to inform you that I am writing to the President of Panama, asking him to send a French vessel to the northward, to be stationed at the mouth of the Island of Tojar, in order that I may be able to compel the Indians there to surrender, as well as those that inhabit Boca del Toro, which vessel, should she arrive, the greatest service will thereby be rendered to God and to our beloved King, that has been performed in the Indies up to this day, because there are three thousand Zambos in the Island of Tojar, while on the coast comprised between the *Bocas del Toro and Matina*, there are ten thousand Indians, who belong to the conquest of Talamanca."

The foregoing paragraph puts an end to all doubt, as to the Island of Tojar being precisely the same as is now known under the name of the Island of Colon: seeing that it is described as forming one of the outlets (bocas) and is capable of supporting many people.

The Missionary Fathers of Christ College at Guatemala, forwarded to the King of Spain, in 1763, a minute narration of the condition of the Missions of Talamanca, and other establishments of the same character under their charge, entering fully into the history of the former, from its commencement—that narrative goes on to state, "that the conquest of Talamanca embraced a territory of 120 leagues from East to West, and between 30 and 40 from North to South: that the tribes or nations that inhabited the same were seven, to wit:

1st. The Talamancas properly called, and their dependent tribes of Cabecares and Viceytas. 2dly. The Terrabas of the North or Tiribies. 3dly. The Tojares of the islands. 4thly. The Chan-

quenes. 5thly. The Zequas. 6thly. The Torrasques, and 7thly. The Guayamies."

It states, that "the four tribes first mentioned are under the jurisdiction of the Audience of Guatemala, and the three last under the jurisdiction of the Audience of Tierra Firme." Speaking of the island of Tojar, he says, "that it is very fertile and handsome, but that it was already almost deserted (then in 1763) by the repeated invasions of the Zambos and Mosquitos, in conjunction with Englishmen, who carried off the inhabitants, in order to sell the men in Jamaica, and make use of the women." He states, "that in 1747, the Governor of Costa Rica made an entrance with troops for the purpose of reducing the Indians; and another in 1749, which was the last.

This is what is proved by the annals, as yet unpublished, of Costa Rica, and what is confirmed in a report addressed to the court on the 15th of September, 1777, by Don Felix Francisco Bejarano, Governor of Chiriqui, in reference to the conquest of Talamanca. The Engineer, Don Luis Diez Navarro, who explored the coast of Guatemala in 1744, by superior order, with the object of providing for its defence, speaking of the "Province of Costa Rica and of the boundary of the Kingdom of Tierra Firme," says, that said boundary stands thus: *on the North, the Island of the Escudo, and on the South, the river Burica.*"

Let us see now what general historians say:

The Chronicler, Herrera, in his famous decades, (edition of 1725,) in describing the Province of Costa Rica, observes, "that it is the "easternmost of the Indies of the North, and of the Audience of Guatemala, and that it has a port and landing place on the coast of the "South Sea and of the North Sea, in which there are some rivers "between Nicaragua and Veragua, common to this government: and "the Bays of San Geronimo and of Caribaco (Bay of the Admiral) "near the boundaries of Veragua."

Alcedo, in his historical and geographical dictionary of the New World, (Madrid edition of 1786) gives the following definitions:

"*Costa Rica*, Province and Government of Guatemala in Northern America: it is bounded on the North and on the West, by that "of Nicaragua: on the South, by the Province of Veragua, in the "Kingdom of Tierra Firme; it is watered on the southwest and

"northwest by the Pacific, and on the northeast, by the Atlantic Ocean."

* * * * *

"It has ports on both seas, and the magnificent bays called San Geronimo and Caribaco, (Boca Toro) belong to it."

"*Chiriqui*: This same name is given to a river of this province, (he has just been speaking of the Province of Chiriqui,) the source of which is among the mountains of the south, and which empties itself into the Pacific, serving as the dividing line between this province and that of Costa Rica, in the Kingdom of Guatemala."

Don Domingo Juarros, in his history of the Kingdom of Guatemala, also designates the small island called "Escudo de Veragua" and the river of Burica, as the boundaries between Costa Rica and the Kingdom of Tierra Firme."

Juarros might be accused of partiality, in consequence of his being a native of Guatemala, where he wrote his work: but what could possibly be alleged against the aforesaid Herrera and Alcedo, who prepared their interesting compilations in the Peninsula; taking, no doubt, as their only guide, the documents to be found in the *Consejo de Indias*, and without having any motive for leaning in favor of either party?

The friends of New Granada have quoted in support of their pretensions, the writings of the celebrated traveller, Don Antonio de Ulloa, who, in his "American Notes" puts forth the following paragraph:

"The city of Panama" he says, "is not only the capital of the Province of that name, but also of all the Kingdom of Tierra Firme, which consists of the three Provinces of Panama, Darien and Veragua. The first is the seat of all the government offices, in consequence of its being located between the other two, the Darien being to the eastward, and Veragua to the westward. The Kingdom of Tierra Firme begins at the North, with the river Darien and extending through the country, called *Nombre de Dios*,] *Bocas del Toro* and *Bahia del Almirante*, terminates at the West, with the river *de Los Dorados* in the North Sea; and by the South Sea, beginning westwardly, it extends from *Punta Gorda* in Costa Rica, through *La Punta de Moriatos* and *Maria Puercos* as far as the Gulph of Darien, where it continues in a southerly direction, following the coast, by *Punta de Pinos* and *Maria Quemada*, as far as the Bay of *Buena Ventura*."

The authority of Señor Ulloa, is certainly entitled to the greatest respect ; but we think that in the present instance, it cannot be placed upon the same level with that of the writers heretofore mentioned, Herrera and Alcedo. The former wrote under the inspiration of one of the parties, reproducing such information as he was able to collect at Panama, where matters must naturally have been represented to him under the most favorable aspects, to the Kingdom of Tierra Firme, and never having visited either Costa Rica or Guatemala, he had no opportunity of rectifying the errors he had involuntarily committed in his remarks. The other writers, (Herrera and Alcedo) composed their works under circumstances of absolute impartiality, consulting the highest authorities, where all the datas in connection with the subject, were necessarily concentrated, the same having been supplied by each of the colonial governments and provinces, and without being exposed to any particular influence. And it must be carefully borne in mind, that although Alcedo wrote subsequently to Ulloa, he confirms what, many years before, had been printed by Herrera, in regard to the Bay of Caribaro (*Boca Toro*) belonging to Costa Rica, adding, that its territory to the South, extends as far as the Chiriqui river ; all of which is in direct contradiction with what Ulloa asserts. Let the impartial reader decide which of these two authors deserves mostly to be relied upon.

With regard to maps and ancient geographical charts, we have examined the following :

1st. "Map of Mexico and of New Spain, by Sanson d'Abbeville, Paris, 1656," in which the dividing line between Costa Rica and Veragua is made to run from Concepcion, at the bottom of *Boca Toro*, as far as the Island of *Maria*, in the Pacific sea, leaving *Boca del Drago* to the territory of Costa Rica.

2dly. "Charts of Mexico and of Florida, by de L'Isle, drawn up after a great number of Memoirs, by d'Yberville Le Sueur, 1703." In these the frontier line runs from Concepcion to Chiriqui.

3dly. "A Map of the British Empire in America, with the settlements adjacent, by Henry Popple, published at Amsterdam, by John Convents and Cornelius Mortier." In this the frontier line is made to run from Concepcion to Chiriqui. The three charts referred to, place the Island *del Escudo* out of the pale of Costa Rica, but give to the latter one half of the Bay of *Boca Toro*.

We think we have presented sufficient data to convey an idea of what was the condition of the respective jurisdictions, previously to the year 1803, the only point, in our opinion, which requires to be cleared up, because the question cannot be decided upon any other principle.

CHAPTER II.

What is the value to be attached to the Royal Order of San Lorenzo, issued in 1803?

This order copied literally, runs thus:

"SAN LORENZO, November 20, 1803.—The Committee on the Fortifications and Defences of the Indies, in their consultations of September 2d and October 21st last, have delivered an opinion relative to the advancement, settlement, and defence of the Islands of San Andrés, their proposed separation, and that of the adjacent portion of the coast of Mosquitos which extends from Cape *Gracias a Dios* inclusive, as far as the river Chagres, of that Captaincy Generalship, and its incorporation with the new Kingdom of Granada; and the King having confirmed the opinion of the Committee, I send you, by order of His Majesty, (and likewise to the Viceroy of the aforesaid Kingdom) copies of said consultations, in order that the same may be understood and carried out, in regard to what concerns you—God preserve you for many years,—signed Soler—To the Captain General of Guatemala."

"The history of this Royal order appears to be, (we copy the words of Mr. Chatfield, Chargé d'Affaires of her Britannic Majesty in Central America, who, in 1847, was writing to his Government on the subject) that Captain Don Thomas O'Neill, Governor of San Andrés, having had some difference with the Captain General of Guatemala, under whose orders he was, applied to the Court of Spain, asking that a higher rank and salary might be granted to him, and for the transfer of the Island of San Andrés and the adjacent Coast to the Viceroyship of Santa Fé, alleging the very great distance between his post and Guatemala, and the greater facility of communication with Cartagena, which was then a considerable naval station of Spain, and for obtaining assistance from that quarter, in case of necessity."

"The suggestion was received and treated under a purely military aspect, and was accordingly referred to the committee on the fortification and defence of the Indies, whose opinion was pronounced in favor of Captain O'Neill's wishes. But there is nothing to prove, that the political and jurisdictional authority of the government of

Guatemala, over the places transferred to the Viceroyship of Santa Fé were affected by that measure ; nor that it was ever communicated to the Supreme Council of the Indies, since no instructions were forwarded to the political section of the government of Guatemala, represented by the President and Judges, and since it was only considered, (as the opinion of the Committee on Fortification says) as a means of uniting, for the better defence of the King's possessions, as far as Cape Gracius a Dios, the military command, under the control of the Viceroyship of New Granada, whose great naval and military resources were concentrated in Cartagena, so that the Captain Generalship of Guatemala might thereby remain more free to provide for the safety of that portion of the Northern Coast, which he had more at hand. And thus it is, that the Viceroy of New Granada never exercised any political authority in that territory, and that there is no trace of any establishment or local government having existed at any period subject to his rule, on the coasts of Mosquito or Central America."—Thus far Mr. Chatfield.

The measure in question was therefore of a temporary character, issued with a special and limited object, which could not and did not produce any effect whatever in regard to changing the ancient territorial demarkations. To do this, it would have been necessary to designate the breadth or latitude of the coast to which the Viceroyship of New Granada was intended to be transferred : to have divided the territory thus circumscribed, into new districts, and to have made arrangements for the interior government of the latter. The order alluded to contains none of these requisitions. It simply provides for a change in the respective military jurisdictions of the Viceroy of Santa Fé and of the Captain General of Guatemala ; but it is evident, that this measure did not affect the territorial proportions of the Provinces which compose the Kingdom of Guatemala. It is clear, that Costa Rica was not, in consequence of said order, deprived of the Province of Talamanca, and of all the coast appertaining to it, on the Atlantic ; nor did the order aforesaid deprive Nicaragua of Tologalpa.

All those countries being alike dependencies of the King of Spain, there was positively no incompatibility whatever in their recognising for certain administrative purposes a centre of authority, whilst they were called upon to obey different head quarters in regard to other things.

But this is quite immaterial, as subsequent events precluded the possibility of effectually carrying out that order of San Lorenzo, of its ceasing to be a dead letter, and of its acquiring, by virtue of long use, a prescriptive character, such as would be necessary to produce the results insisted upon by the new Granadians. The populations which constituted the Viceroyship of Santa Fé, were among the first to rise against the authority of the mother country, which authority ceased almost entirely to exist in that colony by the year 1813; while the people of Guatemala continued faithful to the mother country up to the year 1821, and under such circumstances, the order of San Lorenzo was annulled, *de facto*; while the supervision of the coast in question had to be reassumed by the Captaincy Generalship of Guatemala.

All these circumstances being considered, therefore, we cannot look upon the order of San Lorenzo, except in the light of an ineffectual, unaccomplished measure, inapplicable to the case in point, and quite superfluous for the purpose of determining the unsettled boundaries.

After the delivery of the order aforesaid, all things remained as they were before: The Mosquito Indians and Zambos continued to inhabit the coasts of *Gracias a Dios*, in independent families; the Government of Guatemala continued to exercise the jurisdiction appertaining to it in the ports of San Juan de Nicaragua and Matina. The Bay of Boca Toro continued in a state of abandonment, being made the haunt of outlaws and adventurers from every quarter—Indians, smugglers, and pirates.

CHAPTER III.

What was the condition of Guatemala and New Granada at the time of their emancipation from the mother country, with regard to territorial jurisdiction? The Republic of Colombia, created by the great Bolivar, by means of a union of the Viceroyship of New Granada, the Captain Generalship of Venezuela and the Presidency of Quito evinced, from the beginning, an inclination to appropriate to itself a great portion of the territory of Guatemala, basing its pretensions upon the decree of 1803. It does not appear, however, that said Republic of Colombia did, at any time, proceed seriously to occupy said territory, by forming settlements, founding establishments, or by placing garri-

sons, or its own functionaries in the same. On the contrary, the confederacy of Central America invariably extended its legislation over it, and maintained uninterrupted possession of San Juan and Matina.

The acts which are alleged as acts of possession, on the part of Colombia, consist, not in deeds, but in words; in simple declarations of her pretended rights, made in various decrees. For instance; on the 19th of April, and 22 of November, 1822, the government of Colombia declared: that the coast of Mosquito was open to indirect trade; and on the 5th of July, 1824, the same government proclaimed, in noticing the projects of colonization in the district of Poyais, on the part of the adventurer McGregor, that it would not tolerate the establishment of such colonies, threatening those who should attempt to do so with severe penalties, and ordering possession to be taken of the Island of San Andrés. These measures, however, were never carried into effect in the countries to which allusion is made, no more than the bulls and mandates of the Pope's are among infidels. On the Coast of Mosquito, commerce continued to be carried on with entire freedom, as it was usual before, without any one caring for the powers which the government of Bogotá arrogated to itself, in order to restrain the same. The undertaking of Mr. McGregor followed its course, during several years, until it finally broke through, on account of its intrinsic impracticability, and not in consequence of the opposition it met with from the Colombian government. With regard to the Island of San Andrés, it does appear, that said government sent a vessel of war to hoist its flag there, and to dislodge the adventurers who had possession of that Island, although, we think, that subsequently, it was again abandoned.

We must repeat it, the pretended possession, on the part of Colombia, was merely written on paper. The respective territorial jurisdictions of Colombia, or rather of New Granada, Tierra Firme, or Veragua, on one side, and of Guatemala, or say, Central America or Costa Rica, on the other side, were, at the time that those countries achieved their independence, on the same footing as they had been during three centuries, without any more difference than that of Colombia having stirred up a controversy, which should never have been raised.

At that period, thanks to the genius of Bolivar, and the struggles consequent on a protracted conflict, Colombia ranked as a formidable

power among the new Spanish American States : she kept up a powerful army and a respectable naval force ; she had a well filled treasury to rely upon, supplied by numerous loans raised in London ; her political organization was complete ; her diplomatic relations with some of the great powers, were well established ; while Central America without any of these many advantages, after passing some years amid the confusion of the Mexican Empire, and a mitigated anarchy, was hardly beginning to arrange her form of government, under a system, the difficulties of which, caused all external matters to be neglected.

Hence it is that the Colombian government did not hesitate in revealing its designs, with regard to a territory, which had unquestionably belonged, and did of right belong to a brotherly people, doing all it could, in order that such pretensions might acquire credit every where. But although Central America could not combat those pretensions with the energy that was required ; although she allowed the assertions of Colombia to pass unnoticed, for want of agents abroad to contradict them, or with a view not to provoke useless discussions, it cannot be pretended that she ever did relinquish her rights, either directly or indirectly.

Let us be allowed to state, that the National Constituent Assembly of Central America, in decreeing the Constitution of the Republic, on the 22d of November 1824, declared in the 5th article, " that the Republic embraced all the territory which formerly constituted the kingdom of Guatemala." Agreeably with this declaration, the State of Costa Rica, as one of those which united in forming the Central American Confederacy, also declared in her own private constitution, proclaimed on the 21st of January 1825, " that the territory of the state extended as far as the Escudo of Veragua, in the Atlantic, and the river Chiriqui, in the Pacific," embracing all the coast included between the mouth of the river San Juan and the aforesaid Island of Escudo. Such was the condition of things, up to the day, when the treaty of 1825, between Colombia and Central America was concluded ; that is to say, that of an open question that had to be discussed at some future day. Let us see, now, whether said treaty had altered this state of things.

CHAPTER IV.

What is the spirit of the treaty between Colombia and Central America, and the consequences resulting from it? Looking at that important document, which bears for its title, "a Convention of Union and Perpetual Confederacy between the united Provinces of Central America and the Republic of Colombia," and which was signed at Bogotá, on the 15th of March, 1825, by Doctor Don Pedro Molina* as Envoy Extraordinary of Central America, and by Don Pedra Gual, as Minister of Relations and Plenipotentiary *ad hoc* of the Colombian Government, we find in the 5th article, the following provisions. "The two contracting parties mutually guaranty to each other, the integrity of their respective territories, against any attempts on the part of the vassals of the King of Spain and their adherents, upon the same footing as those territories stood previously to the present war of Independence." But the Federal Congress of Central America, when taking said article into consideration, approved the same, with the condition that the word *naturally*, should be intercalated, the article being made to read thus:

"The two contracting parties mutually guaranty to each other the integrity of their respective territories, on the same footing as those territories *naturally* stood, previously to the present war of Independence against the attempts and incursions of the vassals of the King of Spain and their adherents."

This alteration made, the ratifications were exchanged at Guatemala, on the 17th of June, 1826, with General Don Antonia Morales, Envoy Extraordinary and Minister Plenipotentiary of Colombia, near the government of Central America. That is to say, the convention was not exchanged until fifteen months after it had been concluded, and after mature consideration on both sides.

By means of the alteration that has been mentioned, it is made evident, beyond all doubt, that the question relative to the validity of the order of 1803, was settled in favor of Central America, since the meaning of the adverb which was inserted cannot be mistaken. Whoever examines the subject attentively, will see, that the boundaries marked out by nature for Central America, are an extent of

* Father to the author of this memoir.

coast on the Atlantic, corresponding with the territory it occupies in the interior, and the coast which belongs to it, on the Pacific. Those boundaries would certainly not be in a natural state, if all the coast intervening between the Cape of *Gracias a Dios* and the *Escudo of Veragua*, were to be cut off from that country, leaving Nicaragua and Costa Rica without any access to the North Sea.

In another article, the 7th, it was stipulated, "that the United Provinces of Central America and the Republic of Colombia, formally engaged and bound themselves, to respect their relative boundaries as *they were then* : reserving to themselves to draw up, in a friendly manner, by means of a special convention, the line of demarkation dividing the two states, as soon as circumstances would permit, or the moment that one of the parties should make known to the other, its readiness to enter into negotiations."

We have already seen what the boundaries were then ; but if more proof is wanting, we will invoke an unimpeachable authority, that of Mr. O'Leary, Chargé d'Affaires of His British Majesty, at Bogotá, who, in writing to his government, in relation to the titles of the Mosquito King, and strenuously upholding the pretensions of New Granada, in which country he has passed the greatest portion of his life, both in the service of the same, and as a representative of Great Britain, could not, nevertheless, avoid making the open acknowledgment, "that said Republic (New Granada) has no right whatever to the coast included between lake Chiriqui, in the neighborhood of which, (Boca Toro) she had founded an establishment, and the river of San Juan."

It is proper to remark, that the establishment alluded to by Mr. O'Leary, was formed by New Granada, after the dissolution of Colombia, subsequently to the year 1836 ; and it was, no doubt, in consequence of the very recent date of that establishment, and of its not presenting appearances of stability, that Mr. O'Leary could not look upon it, as an act, capable of conferring rights of possession, and with this view of the case, he decides, "that the Republic of New Granada has no possessory right whatever to the coast included between lake Chiriqui and the river San Juan"—and if New Granada had not acquired such right of possession up to 1847, the period at which O'Leary wrote, how much less cause is there for maintaining,

that Colombia did hold such possession as early as the year 1825 and 1826? (*) The more one ponders upon the meaning of the two articles of the treaty, we have just mentioned, the more profound becomes the conviction, that Colombia pledged herself to abandon her pretensions in virtue of said articles—By one, she guarantees to Central America her *natural boundaries*—by the other, she promises to respect them, *as they did then exist*.

It is certain, that the definite drawing of a dividing line, was reserved for some future period, because the necessity of this operation was always present; inasmuch as the points which were to constitute the frontier, had not been expressly specified, and that, for the designation of said frontier, different lines, at a greater or closer distance, might be adopted.

Nevertheless, the bases were fixed; it being agreed upon to recognize the *natural boundaries*, the boundaries, *such as they did then exist*, which, in the present case, was tantamount to the recognition of the principle of *uti possidetis*, which has been generally maintained by all the Spanish American States.

The other articles of the Treaty corroborate the idea, that this admits of no other interpretation. In the 8th article the contracting parties stipulate; “that in order to facilitate the progress and happy issue of the negotiation concerning the boundaries, each of them was at liberty to appoint commissioners, to explore the points and places on the frontier, and draw up charts,” &c. By the 9th article they pledge themselves to prevent unauthorized adventurers from colonizing in that part of the coast, from cape *Gracias a Dios* inclusive, as far as the river Chagres, without leave having been previously obtained by the contractors from the government, to which the control and ownership of said coast belongs.

This article requires, that we should pause, in order to analyze it carefully; abstractedly considered, it admits of three interpretations:

1st. That by the word *government*, it is intended either of the two governments, and that the latter acknowledged each other, as owners of all the coast mentioned, although they had not yet agreed, as to the point which was to separate their respective sovereignties: This is the only rational interpretation, and that which agrees with the stipulations contained in the 5th and 7th articles.

* At this very day, there is not a Granadian living there except a subordinate officer. All the inhabitants are foreigners.

2nd. That by the word *government*, it was intended to say, the government of Central America only ; thereby recognizing its sovereignty over the entire coast above mentioned. This interpretation would be erroneous, because, that Republic never pretended to extend as far as Chagres.

3rd. That the word *government* must be interpreted as meaning the government of Colombia only, thereby recognizing its sovereignty over the entire coast above mentioned. This interpretation would be false likewise, because it is in conflict with the declarations made in the 5th and 7th articles, and because Central America never relinquished her rights over that portion of said coast which belongs to her. It is not to be presumed, that Central America could have intended to contract an obligation purely burdensome to herself, by engaging to defend with her maritime and land forces, the coast above described, the greatest portion of which was, in the opinion of said Republic, taken away from it ; and this would have been the case, if by the 9th article it was to be understood, that *all* the coast aforesaid, belonged exclusively to Colombia. All the antecedents connected with this subject are opposed to such an interpretation. Supposing the government of Central America to have been capable of such a weakness, it would likewise, have made no objection to let the abandonment of its claims be expressed in definite terms, and, certainly, the Representatives of Colombia would not have allowed the opportunity to escape. But the circumspection and acuteness evinced in the proceedings at Guatemala, at the time when the Treaty was ratified, by exacting explanations, clearly shows that in that quarter there was not the least carelessness in the management of the subject. The fact is, that the two contracting states, taking into consideration that the portion of the coast above mentioned, comprised between Cape *Gracias a Dios* and the river Chagres, belonged to them, and not being able to fix, at once, the point where the jurisdiction of Colombia ought to end, and that of Central America commence, they found it mutually agreeable to enter into a reciprocal engagement to drive away all unauthorized adventurers. Now, whether the dividing line were to be laid in the river Culebras, or in the Escudo, from either point down to Chagres, a portion of the coast would, under all circumstances, fall to the share of Colombia. The coast, however, being left undivided as belonging to the two powers,

it was an act of reciprocity to undertake the joint defence of the same. Central America did not impair her condition by accepting the article. But, from the moment that Colombia implicitly recognized, by means of the treaty, the rights of Central America over said coast, as far as any given point to the South of Cape *Gracias a Dios*, the pretensions the former had founded on the order of 1803, fell entirely to the ground.

It might be argued, that even though Central America had been considered as entirely excluded from the coast in question, that country would, nevertheless, have felt an interest in preventing foreigners from colonizing there, and that, consequently, there would be no absurdity involved if the third construction were given to the article. This argument would not be without force, if the preceding articles could be struck out of the Treaty, and if the correspondence which subsequently took place between the two governments, as we will presently see, did not entirely destroy the hypothesis. Finally, by the 15th, 16th, and 17th articles of the Treaty, the contracting parties agreed, that in order to draw closer the ties which connected them, and to smooth away any difficulty which might, in any manner, occur to disturb their good understanding, there should be organized an assembly, composed of the plenipotentiaries representing each party, and that the other States of Spanish America should be invited to attend in the same regular form; and that said assembly should act as arbitrator in their disputes and differences. From all this it is to be inferred, that the intention of the parties, was to submit to arbitration the questions which they foresaw might arise with regard to the settlement of their boundary line.

As soon as the Treaty had been signed at Bogotá, the government of Colombia accredited, as we have already seen, General Don Antonio Morales, as Envoy Extraordinary and Minister Plenipotentiary near the Government of Central America, in order that he might manage the matter of ratification in Guatemala, and promote the negotiation relative to the boundaries. Mr. Morales, if we are not mistaken, remained there fully three years, occupied with the duties of his mission. We are credibly informed, that he took the initiative, in regard to a convention on boundaries, and that during the conferences held on the subject, he still tried to enforce the order of 1803, notwithstanding the very clear meaning of the Treaty of Alliance, in order

to make the territory of Colombia run as far as the river San Juan. Of course nothing was agreed upon, although the Government of Central America seemed inclined, on its own part, to make some sacrifices for the preservation of good harmony, but without ever admitting the validity of said order. From that period, the incessant troubles in which Central America was involved, and the dissolution of Colombia, have prevented the subject from being again brought under consideration.

In short, judging of the matter impartially, we do not believe that any one can resist the conviction, that the Treaty of 1825 decided the question in favor of Central America ; but should this conclusion be resisted, by giving the treaty an interpretation contrary to its true meaning, the result would be to place the question precisely where it was previously to the treaty.

CHAPTER V.

What is the state of things now ?

The Republic of New Granada, one of the three sections into which the old Republic of Colombia had been subdivided, began from the year 1833 to follow in the footsteps of the latter, in regard to the coast of Mosquitos. Her first decree on the subject, issued on the 14th of January of that year, merely forbids foreigners from carrying on a direct trade with the savages of Goajira, Darien, and Mosquitos, without special authority, providing for the stationing of Revenue cutters from Chichibacoa to the Cape *Gracias a Dios*. The value of these orders will be understood, by bearing in mind, that the authority of New Granada was never established, either on the coast of Mosquitos nor on that of Goajira. The Mosquitos have a kind of independent government under the protection of Great Britain, and the remainder of the coast has been under the jurisdiction of Nicaragua and Costa Rica. The natives of Goajira live likewise in a state of complete independence, and the territory they occupy, is claimed by Venezuela as her own property.

We have at last reached a period when New Granada no longer confined herself to words, but actually made preparations to carry out, in reality, the old project of occupying the coast in dispute. This she effected, by issuing the decree of May 30, 1836, ordering

the foundation of a settlement, to be considered as a port of entry, with its garrison and civil government at *Boca Toro*: a decree which was not carried into effect until some time afterwards. The possession of *Boca Toro* by New Granada dates precisely from this time, nor did she ever hold it before, since the New World was discovered.

It is to be presumed, that this proceeding on the part of New Granada, is what induced the Federal Government of Central America to think of occupying likewise, in some manner, *Boca Toro*, in its turn, by authorizing Colonel Galindo, to establish an Irish colony there; but as Central America was then on the eve of her dissolution, the enterprise of Galindo did not receive due encouragement, and the few colonists he brought there were dispersed in consequence of the threats of the New Granadians.

In connection with the incident referred to, two notes passed between the Governor of the Province of Veraguas and the then Chief of Costa Rica. It will be seen that the latter, in his reply, maintained with dignity, the rights of his country.

In 1840, the Central American Confederacy became extinct, and Costa Rica began to govern herself as a nation entirely independent. The following year, a revolution of the Provinces broke out in New Granada, with a tendency to Federalism. The Isthmus of Panama proclaimed its independence, and the provisional government which was organized there, sought to establish relations with Costa Rica, by sending a commissioner to her: the mission of the latter, however does not appear to have, been productive of any results. The pronunciamiento of the Isthmus was very soon put down.

Since that time, nothing particular has occurred in the official communications of the two countries, and the question is still held in abeyance.

In 1838, the English Government evinced a determination to put in force its ancient alliance with the Mosquito tribes, by proclaiming itself Protector of the latter, for the purpose of securing to them a political existence, and of putting them in peaceful possession of all the coast comprised between the river of San Roman and Cabo de Gracias, and from these as far as King Buppan, near the Island of Escudo. With this object, the English Government aforesaid, notified the various Governments of Central America, as also that of New

Granada, of the fact. This proceeding was very natural, since the latter had exhibited pretensions to the sovereignty of said territory, and this circumstance was sufficient for the British Government to look upon her as one of the parties concerned. The New Granadian Government availed itself of this opportunity, to revive and enforce its pretensions to the whole coast, maintaining its views with ability and earnestness, through the medium of the Minister it had at the Court of London, where there was no agent, either from Honduras, Nicaragua, or Costa Rica, to raise a voice in their behalf, and come forward to defend their rights.

It must not be wondered therefore, that the British Cabinet, through that courtesy which is peculiar to the age, should patiently have listened to the representations of New Granada, and given her, at times, flattering answers.

It is, nevertheless, a fact, that in 1841, H. B. M's Corvette "Tweed," commanded by Captain Douglas, appeared at the *Bocas del Toro*, having on board the Superintendent of Belize, Macdonald, with his Secretary, Patrick Walker, afterwards Consul General of Great Britain, on the Mosquito coast, and the King of said Mosquito, Robert Charles Frederick, who was landed there with all the honors due to the Sovereign of the country.

On the following day, the Superintendent, Macdonald, informed the New Granadian functionaries, that the object of his visit was, to reconnoitre the dominions of the King of Mosquitos, and to determine the true boundaries of the same, but that he should give no written explanation, as that would be to admit the sovereignty of New Granada over said territory, of which she had illegally taken possession.

Several days subsequently, the English and other foreigners residing in the Island of Boca Toro, assembled and swore allegiance to the King of Mosquito. This proves that the authority of New Granada in those localities, was not firmly established, and that her occupancy of the same, of very late date, has been very precarious, or properly speaking, merely nominal.

In 1847, the British Government prepared to carry out its determination in regard to the Mosquito coast, but it did not think it necessary to extend the immediate occupation of the coast beyond the Southern Branch of the river San Juan, confining itself to putting

the King of Mosquito in peaceful possession of all the territory which lays between the river San Roman and the mouth of the Colorado and deferring for another occasion, the vindication of the rights of said King to that other portion of the coast which lays between the Colorado and Kings Buppan, which is precisely the coast of Costa Rica, with a trifling difference.

Many considerations might have influenced the British Ministry to act in this manner. The important feature of the affair consisted in the occupation of San Juan, in consequence of its being the key of interoceanic communication.

Leaving aside the political point of the question, it is an incontrovertible fact, that the Mosquitos have made their home along the coast situated north of San Juan, while they never had any footing on the coast which runs in a southerly direction; although, from time to time, they have committed depredations, and effected landings in the ports of Costa Rica, leagued with pirates, corsairs, and smugglers. These historical facts could not have been concealed from H. B. M's government. The good understanding which has existed for many years back between the government aforesaid and the State, now Republic of Costa Rica, may likewise have influenced the former to withhold the accomplishment of an act, which would have been injurious, in the highest degree, to that Republic.

Finally, the desire to avoid controversies with the New Granadian Government, could not but have had some weight in regulating the action in the premises, although a motive of secondary consideration.

The result is, as every one knows, that the occupation was limited to the Port of San Juan; which took place on the 1st of January, 1848; it being understood, however, that this should not prejudice any right which the King of Mosquitos might have to any of the territories situated south of San Juan.

Mr. Mosquera, Minister of New Granada in England, thought it his duty to protest against these operations, in a note addressed to Lord Palmerston, dated London, April 19th, 1848. Lord Palmerston replied to him concisely on the 4th of May of the same year, denying that New Grenada had, or could allege any right to any portion of the unoccupied territories, on the strength of any title inherited from Spain, and insisting, that the Mosquito territory ought,

by just right, extend as far as King's Buppan. Nevertheless, as it cost him nothing to pay a kind compliment to Mr. Mosquera, and he could do so conveniently, he concluded with these words, "Her Majesty's Government, however, has recommended to the Mosquito Government, to limit its demands on the south side, to the Eastern branch of the river San Juan: and *one main reason* which has induced H. M.'s Government to make this recommendation was, that by this means, all dispute between Mosquitos and New Granada would, as it is to be hoped, be avoided."

By this paragraph, written with admirable precision, it is clearly seen, that if a sentiment of consideration towards New Granada was *one main reason* which governed the conduct of Lord Palmerston, this did not exclude the existence of other powerful reasons, and, without vanity, we must presume, that similar sentiments of consideration towards Costa Rica, must have had some influence in the matter.

Although the latter State had no representative in London to advocate her cause, Mr. Chatfield, then Consul General, and, at a later period, Chargé d'Affaires of H. B. M. in Central America, had shown in his communications to his government, the superiority of the titles of Central America compared with the titles of New Granada, and the greater facility which England would find in settling any question with the Governments of Central America, especially with that of Costa Rica.

It appears then, a very ridiculous idea, to make a boast of the declaration of Lord Palmerston, as of a conclusive argument in favor of New Granada—even though that Minister had positively recognized the pretensions of New Granada, his action could have no effect in invalidating the rights of a third party, that had not concurred in the negotiation.

The course pursued, first by Colombia, and subsequently by New Granada, in this matter, has been calculated to produce the belief, that in their aspirations, they were actuated by a desire to prevent the contemplated enterprise of a ship canal over the territory of Nicaragua and Costa Rica from being carried out, without the intervention and consent of those Republics, (Colombia or New Granada) thereby concentrating within their hands, all the routes of interoceanic communication, such as those of Atrato, Panama, and Nicaragua, or

preventing, at least, the last mentioned route from being opened, in order to secure the monopoly of trade to the other two routes, which pass through New Granada's own, undisputed territory.

However, the recent acts of the New Granadian Government have led us to believe, that if such a design was ever entertained, it has since been abandoned. Whether it be owing to the change of circumstances, or to the effects of a more enlightened policy, we are gratified to see, that the Granadian Government has, in these latter days, modified its views upon the subject.

The refusal on the part of the Government of the United States, to accede to the request which had been made, that it would, in its treaties with New Granada, recognize the rights which that Republic maintained in regard to the Central American coast, must have contributed greatly to this favorable change. The course of the discussions and negotiations, to which the events that have taken place in Mosquitos, have given rise, and in which, both the Anglo-American and the British Governments seem to have agreed not to consider any one as parties interested, except the Central American States, must likewise have convinced the New Granadian Government of the necessity for abandoning a position which is untenable.

Hence it is, that in the Message of President Lopez to the Chambers of 1851, we find the express declaration, that the opposition offered by New Granada to the operations of Great Britain, on the Mosquito coast, had never had for its object, the appropriation of that territory, by New Granada, on her own account, but to defend and preserve the same for the benefit of the sister republics of Central America.

Such expressions, undoubtedly, do honor to the present New Granadian administration. We believe that they have been uttered in a spirit of sincerity, and we accept them with feelings of gratitude.

We must be allowed to remark, however, that in our opinion, the intermeddling of that government with the Mosquito question, so far from being favorable to the interests of Honduras, Nicaragua, and Costa Rica, has only served to weaken the cause of those States, by complicating the matter, and throwing their rights into confusion.

On the other side, until the New Granadian Government shall have entirely repudiated the order of 1803, abandoning the idea of

obtaining, by means of said order, advantages, to the injury of its neighbor, the small State of Costa Rica, we cannot place entire confidence in the generosity and rectitude of its fraternal sentiments. It is indispensable, before every thing else, that it shall agree to have the order aforesaid, declared as null, and to have the boundaries between Costa Rica and Veragua, regulated after the ancient titles of said countries, by consenting to discuss the matter amicably, and by submitting, eventually, to arbitration.

In the meanwhile, it is obvious, that if New Granada was the first to fail in the observance of the stipulations of the Treaty of 1825, by violating the *statu quo* which existed in that year, and by proceeding to form establishments and to hoist her flag in Boca Toro, as she did in 1836, without giving any previous notice or intimation to the Federal Central American Government, nor to that of Costa Rica, she cannot find fault with Costa Rica, because this Republic, in 1850, determined to vindicate her rights to said Bay, by granting to a French citizen who has transferred his privileges to a Costa Rican Company, established in Paris and London, permission to construct a port at Boca Toro, and to open a way of communication from there to Golfo Dolce, in the Pacific.*

We will conclude this narrative, by observing, that our effort throughout, has been to furnish the public all the necessary information, in order that a correct opinion may be formed in regard to the question at issue. We have performed the task faithfully and dispassionately, and we ask for nothing else, but that the opinion of the enlightened nations of the earth, may do justice to those that are in the right.

Although the greatness of a nation does not consist in the extent of her dominions, but in the number, intelligence, and industry of her citizens, yet it would not be just for a small state like that of Costa Rica, reduced to a sufficiently narrow compass of boundaries, tamely to renounce an important portion of her territory, which is, moreover, absolutely necessary for developing the resources of the remainder. The

* With reference to the controversy started by the Chiriqui Company and by Vice Consul Motoya, our worthy Consul General and Chargé d'Affaires in London, Mr. Edward Wallerstein, is especially entitled to notice, for the zeal he has displayed in maintaining the rights of Costa Rica.

Government of that Republic, however, will always be ready to listen to any observations that may be offered to it, and to enter into any reasonable arrangement.

We flatter ourselves with a hope, therefore, that the present question will not alter the good understanding which ought to subsist between sister nations, like those of New Granada and Costa Rica ; and that said question will be treated in a manner, as not to verify the opinion which is being propagated, that the Spanish race does not possess the necessary capacity to manage its own affairs.

It will not be irrelevant, to state in this place, that the independence of Costa Rica has been recognized by Spain, in the Treaty of Peace and Friendship which was signed in Madrid, on the 10th of May, 1850, the ratifications of which, were exchanged in the same capital, on the 21st of December of the same year. The two first articles of said Treaty, read as follows:

ART. 1. Her Catholic Majesty, making use of the power invested in her, by a decree of the General Cortes of the Kingdom, dated December 4th, 1836, renounces forever, in the most formal and solemn manner, for herself and her successors, the sovereignty, rights and interests belonging to her, over the American territory, situated between the Atlantic and Pacific sea, with the islands adjacent, previously known by the appellation of Province of Costa Rica, now a Republic of the same name, and over such other territories as may have become incorporated with said Republic.

ART. 2. Consequently, Her Catholic Majesty recognizes the Republic of Costa Rica, with all the territories that actually constitute, or may hereafter constitute the same, as a free, sovereign, and independent nation.

(TRANSLATION,)

ANCIENT TITLES OF COSTA RICA.

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TITLE DELIVERED IN 1840 TO DIEGO GUTIERREZ.  
TOWN FOUNDED ON THE BAY OF SAN GERONIMO IN 1560,  
BY JUAN DE ESTRADA RAVAGO AND THE LICENTIAE  
CAVALLON.  
~~~~~

Don Aniceto de la Higuera, of the illustrious College of Lawyers, and a member of the Economical Society of the Friends of the Country, in Seville, Secretary to Her Majesty, and honorary Auditor of War and Marine, and keeper of the General Archives of the Indies, in said city.

I certify, that the most excellent Count de San Luis, Cabinet Minister, and of the interior of the kingdom, having forwarded to me the Royal Order issued in Madrid, on the 27th of May, 1850, which, being copied literally reads thus :

COLONIAL DEPARTMENT.—H. M. the Queen, has thought fit to grant permission to Don Felipe Molina, Minister Plenipotentiary of Costa Rica at this court, in order that he may, either himself personally, or through the medium of a deputed agent, have access to those archives, to investigate the boundaries of the aforesaid Republic, composed of the old province of that name, and of the District of Nicoya, in what constituted the Captaincy Generalship of Guatemala, directing, at the same time, that copies of those documents, not private, tending to establish the boundaries referred to, shall be granted to said Plenipotentiary. I communicate this to you, by Royal command, for such purposes as may be necessary, and as a continuation of the order of the 19th instant. May God preserve you for many years. Madrid, May 29th 1850—San Luis.

To the Keeper of the General Archives of the Indies.

And, there having applied likewise to me, Señor Don Jose Maria Gutierrez, honorary Secretary to Her Majesty, deputed by Señor Don Felipe Molina, Minister Plenipotentiary of Costa Rica, I showed him a volume of documents which is preserved in this archive, entitled "Department of Peru—Registers of Veragua—official papers, and others belonging to private parties—one volume—from the year 1534 to 1628," which volume is bound, and contains two hundred and six leaves of reading matter, wherein are to be found several Royal orders and diverse paragraphs, which have been marked out by said agent, for the purpose of this certificate, and which having been copied literally, one after the other, read as follows: (The first leaf contains the contract respecting the province of Veragua, agreed upon with Captain Felipe Gutierrez, with a view to its conquest and settlement, which is said to comprise the territory, from the point where the boundaries of the district of Castilla del Oro, called Tierra Firme, do terminate, which boundaries were designated to Pedrarias Davila and to Pedro de los Rios, former governors of said Province, by the instructions that were given to them, up to the cape of Gracias á Dios).

(Turning to the thirty eighth leaf, on its back page, there is found the capitulation entered into with Diego Gutierrez, relative to the conquest of the Province of Cartago, dated at Madrid, the 29th of November 1540, and, in it, there is a paragraph, which being literally copied, runs thus:)

"In the first place, I give you permission and power to conquer and to settle, for us, and in our name, and that of the Royal Crown of Castille, the land which remains to us in said province of Veragua, from sea to sea inclusive; to begin at the terminus of the 25 square leagues which we have granted to Admiral Don Luis Colon, towards the West, which said 25 leagues begin from the *Rio de Belén*, inclusive, extending in a parallel line, as far as the Bay of Carabaro, and what may be wanting to make up the complement of the 25 leagues aforesaid, will have to be measured higher up of said Bay, by parallel as aforesaid, and where said 25 leagues terminate, there will commence other 25, by meridian North, South, and a like number of leagues to commence from Rio de Belén, by said meridian of said North South, and where said 25 leagues terminate, there will begin another 25, which will have to be measured, by parallel, until they terminate at the junction of the terminus of the above

mentioned 25 leagues, which had to be measured further up the Bay of Caraharo ; so that, from the points where the aforesaid 25 square leagues terminate, measured in the manner above indicated, your work of conquest and settlement will commence, ending at Rio Grande, towards the west, on the other side of Cape Camaron ; it being understood, that the shores of said river, in the direction of Honduras, remain within the jurisdiction of said Province of Honduras ; and in the same manner, if there should be on said river any islands inhabited or to be inhabited by Indians, and the same should not have been conquered and peopled by Spaniards, you are at liberty to conquer them ; provided, that the navigation, fisheries, and other advantages of said river remain common to all ; and, in the same manner ; provided that you do not approach within fifteen leagues of the lake of Nicaragua, inasmuch as these 15 leagues with said lake, must remain and do remain within the jurisdiction of Nicaragua ; but the navigation and fisheries of what remains to you in said river, and the aforesaid fifteen leagues and lake which remain within the jurisdiction of Nicaragua, must be common to all ; and we likewise give you permission to take possession of and to people such islands as are to be found within the range of said region of country, on the Northern sea, provided that you do not penetrate beyond the borders or boundaries of the Province of Nicaragua, nor into the other provinces that have been committed to the care of other governors, nor any place that has been settled or located by any other governor whatever."

(Turning to the 45th leaf, also on its back page, there is found a permission to conquer and to settle what had been given to Captain Diego Gutierrez to govern over, dated Madrid, the 16th of December, 1540, and in it there occurs a paragraph, which being copied literally, runs thus, [being in every respect, the same as the preceding, it is not therefore copied.])

(At leaf 66th there is the reply given by the Lord Prince at Valladolid, on the 9th of May, 1545, to Diego Gutierrez, Governor and Captain General of the Province of Cartago, in answer to his letter of November 30th, 1543, addressed to the Emperor, on the subject of the events that had taken place since his arrival, and the tenor of the 3d paragraph being copied literally, runs thus :)

" You say that you have been commanded by His Majesty not to approach within fifteen leagues of Lake Nicaragua, and that the *Outlet** of the same, is in the centre of the coast under your jurisdiction ; and that, by going up said river called the Outlet, as far as its source in what the

* Desaguadero.

inhabitants of Nicaragua call a lake, there may be a distance of from 22 to 23 leagues, and that if you are not to proceed further than within 15 leagues of that place, the grant bestowed upon you by His Majesty, would be almost null in itself, and that you would have wasted your means: and you ask that a declaration to this effect may be ordered to be made. I will order the whole to be examined into, and such provisions will be made in the matter as may be proper and just; in the meanwhile, you shall abide by what has been previously ordained in your charters and instructions."

(Turning to the hundreth leaf, on the following page, there is found a Royal order, dated Madrid the 4th of August 1561, addressed to the Council and Corporation of the town of *Castillo de Austria*, (Austria's Castle,) which being copied entire, is as follows:)

"The King—Council, Justices, Municipal authorities, Gentlemen, Squires, Officials, and good men of the town of Castillo de Austria, I have considered your letter of the 21st of November of last year, 1560, in which you speak of the settlement you have established in that town, in the port of San Geronimo, which is in the province of Cartago, and the hope you entertain of discovering the places where great riches exist, in consequence of the knowledge you have acquired of the country, and the labors you have undergone and are undergoing, and how you have selected Juan de Estrado Ravago, a clergyman, for chief, in the place of the licentiate Cavallon, who will administer that government, and I have been greatly pleased at that discovery and the settlements you have established, and the hopes you entertain that that country must be rich, and therefore I am beholden to you, and appreciate the labors you have performed in the matter, and the good order which, it appears, you have preserved in every thing, and I charge you to continue what you have commenced, and endeavor that said population shall become civilized, and let the lands to be found in the district be reconnoitred, and the Indians inhabiting the same, be well treated, and taught in the things of our Holy Catholic Faith, and that we may be benefited in what is good and just for us to profit by, that I will direct your services to be placed on record, in order that you may be graciously rewarded, as circumstances shall allow. In regard to what you write, begging us to confer the title of pastor and prelate upon said Juan de Estrada Ravago, clergyman, for being a meritorious person, and such as is proper for said charge, *for the present* it appears too soon to provide a prelate for that country, in consequence of its having been so lately settled, and the population being so small; hereafter, when the occasion shall have arrived for doing so, we will bear in mind what you have asked of us, and due notice shall be

taken of the services that the said Juan de Estrada Ravago is performing, and may perform, in order that he may be rewarded, as justice requires according to his deserts—Madrid, August 4 1561—I, the King—Countersigned—de Erasso—Signed by Vazquez—Castro—Xarava—Valderrama—Gomez—Zapata.”

(Turning to the hundredth and one leaf, there is found another Royal order addressed to Juan de Estrada Ravago, which being copied literally, reads thus :)

“ The King—Juan de Estrada Ravago, *I have considered* your letter of the 21st of November of last year, 1560, dated at Castillo de Austria, which is in the Province of Cartago and Costa Rica, and by it, and by the statement you have sent us, and from what has been written to us from that town, I have learned the labors you have performed in the discovery and settlement of the same, and how the Licentiate Cavallon, by commission of our President and Justices of the Royal Court of the Confines (the Audience of Guatemala, was so called) sent you to make said discovery, and how you proceeded there by sea, while he was coming by land, attended by a number of people and cattle; and I have been well pleased with what you have done, which, according to your account, I take it to be all correct, and I am beholden to you, and duly estimate the trouble you have taken in the matter, and I trust in our Lord, that the said Licentiate Cavallon joining you, the discoveries in that country will be completed, and the resources of the same be made known, and that the natives will be greatly benefitted by their instruction and conversion to our Holy Catholic Faith, because, with your zeal and christian piety, you will bring to the task all the care that is necessary, and thus we charge you, to continue what you have commenced, and that you will endeavor to cause said population to progress, and that we may derive the benefits, which we might, with justice and reason obtain from it, and you especially, as a priest and an ecclesiastic, take great care of the Indians, and of their good treatment and instruction in the things of our Holy Catholic Faith, and you must keep us constantly advised of what may be doing on the subject, and what provisions may be necessary to be made for all; that, on our side, with regard to your services and the labors you have performed and may perform, I will order a record to be made of the same, in order that you may be the recipient of our favors, in what may be tangible, as justice requires, and you deserve—Madrid, August 4, 1561. The King—countersigned—de Eraso—signatures as before.”

(And, on the next page of leaf one hundred and one, there is

another Royal order addressed to the Licentiate Cavallon, the tenor of which, copied literally, is as follows :)

“ The King—The Licentiate Juan Cavallon, our fiscal of the Royal Court of the Confines, by letters received from Juan de Estrada Ravago, and from the town of Castillo de Austria, I have heard how our President and Justices of said Royal Court of the Confines have appointed you our Chief Alcalde of the Province of New Cartago and Costa Rica, in due form, and how you, in fulfilment thereof and in consideration of the service which it would be rendering to our Lord and to ourselves thereby ; have determined to go and settle that country, and have concerted with said Juan de Estrada Rabago, to carry, by joint action, said project into effect, and thus accordingly, you both got ready what was necessary for the purpose, and have agreed that said Juan de Estrada Rábago should go by sea, and you by land, and thus did said Juan de Estrada go, with nearly sixty men, and landed in the port of San Géronimo, which lies in said Province of Cartago and Costa Rica, where, it appears, he founded said town of Castillo de Austria, and that he was waiting there for you and the people whom you brought by land ; and I have been pleased to hear, what has been done, in regard to that discovery and settlement, because it appears that it has been done rightly, according to the account which has been sent to us by said Juan de Estrada Rábago, and I am persuaded that when you shall have joined that party, the exploration of that country will be completed, and the resources which it contains be made known, and that the natives of the same will be inclined to the ways of peace, and to the knowledge of our Holy Catholic Faith ; and therefore, I charge you, that since this task of making discoveries and founding settlements has been entrusted to you, that you will do in the matter, what is proper for the service of God our Lord and mine, observing, in every thing, the order which has been issued by us, relative to new settlements and discoveries ; and you will cause the natives to be well treated, and that *we* may derive such benefits from it, as ought, with justice and propriety, accrue to us ; and that after reconnoitring said land, and founding such settlements in it, as you shall decide upon, and bestowing upon the same, such order and government as you shall judge proper, you may return, whenever you shall deem it expedient, to reside, where said court is held, in order to perform therein, the functions of Fiscal, which we have again provided for ; with regard to the services you have rendered hitherto, and may render hereafter, both in regard to the discoveries and founding of settlements, and in whatever else you have served us, we will order a record to be kept, in order that you may be an object of our Royal

gifts as circumstances shall allow—Madrid, August 4, 1561—I the King, countersigned—De Eraso—signatures as above.”

The above statement is correct, and the language corresponds to the letter, with the documents which are alluded to in the book aforesaid, which is preserved in this archive, under my charge. In evidence thereof, I have signed these present in eight leaves of the fourth class stamp, every one of them marked with my usual mark, at Seville the 4th of October, 1850.

(Signed)

ANICETO DE LA HIGUERA.

For searching, drawing this certificate and paper, 82 reals.

Dn. Aniceto de la Higuera, by whom the foregoing instrument has been certified to, is what he represents himself, keeper of the general archives of the Indies, in this city. In evidence thereof, I, as governor of the province, sign these present, Seville, the 20th of February, 1851.

(Signed)

JAVIER CAVESTANY.

(One seal.)

The Minister of the Interior of the kingdom—I certify that Dr. Javier Cavestany, is what he styles himself, governor of the Province of Seville, and that the signature affixed to the foregoing certificate, is the same as he uses in all his writings. In evidence thereof, I sign these presents—Madrid, the 24th of February, 1851.

(Signed)

FERMIN ARTETA.

(One seal.)

Don Luis Lopez de la Torre Ayllon, under Secretary of State, etc. etc.—I certify that Dn. Fermin Arteta, by whom the preceding document has been legalized, is, in reality, Minister of the Interior of the Kingdom, as he styles himself, and to all appearance, the signature and seal at the bottom, are his own. In evidence thereof, I sign these present:—Madrid, February the 27th 1851.

(Signed)

LUIS LOPEZ DE LA TORRE AYLLON.

(One seal.)

TITLE DELIVERED IN 1574 TO DON DIEGO DE ARTIEDA Y CHIRINOS.

Don Aniceto de la Higuera, of the Illustrious College of Lawyers, and a member of the Economical Society of the Friends of the Country, in Seville, Secretary to Her Majesty, Honorary Auditor of War and Marine, and Keeper of the General Archives of the Indies in said city.

I certify, that the most excellent Count De San Luis, Cabinet Minister and Secretary for the Interior of the Kingdom, having forwarded to me the Royal order, issued in Madrid, on the 27th of May, 1850, which being copied literally, reads thus :

“ COLONIAL DEPARTMENT.—H. M. the Queen has thought proper to grant permission to Don Felipe Molina, Minister Plenipotentiary of Costa Rica, at this Court, in order that he may, either himself personally or through the medium of a deputed agent, have access to those archives, to investigate the boundaries of the aforesaid Republic, composed of the old Province of that name, and of the district of Nicoya, in what constituted the Captaincy Generalship of Guatemala, directing, at the same time, that copies of those documents, not private, tending to establish the boundaries referred to, shall be granted to said Plenipotentiary. I communicate this to you by Royal Command for such purposes as may be necessary, and as a continuation of the order of the 19th instant. May God preserve you for many years—Madrid, May 27th, 1860—San Luis. To the Keeper of the General Archives of the Indies.”

And there having applied likewise to me, Señor Don José, Maria Gutierrez, honorary Secretary to Her Majesty, deputed by Señor Don Felipe Molina, Minister Plenipotentiary of Costa Rica, I showed him a volume of documents which is preserved in this archive, entitled, “ Department of New Spain—Register—Letter X—one volume, numbered 1602,” which volume is bound, and contains one hundred and seven leaves of reading matter, and turning to the sixty-sixth on the following page, a document is found which has been marked out by the gentleman aforesaid, as tending to subserve the purpose of this investigation, which being copied, literally, says as follows, on the margin :

“ Title of Governor and Captain General of the Province of Costa

Rica, for Captain Diego de Artieda, and for a son, brother, or any person he may name," and the text, thus : " D. Phelipe 2d, Whereas, being well pleased with you, Captain Diego de Artieda, and the services you have rendered us and the desire you have to continue the same, and to add to our Royal Crown of Castille, *we* have ordered you to be apprised of an ordinance we have issued relative to the discovery, settling, and pacification of Costa Rica, which ordinance contains a passage couched in these words : *In the first place*, we give you permission and power to reconnoitre, settle, and pacify said Province of Costa Rica, and the other lands and provinces included in the same, which is, from the North Sea to the South Sea in breadth, and in length, from the boundaries of Nicaragua, on the side of Nicoya, straight forward to the Valleys of Chiriqui, reaching the Province of Veragua; and we bestow upon you the government and Captain Generalship of said Province of Costa Rica, and of all the other lands which, as above stated, are included in the same, for the term of your natural life, and that of your son or heir, or any person you may name, with two thousand ducats of salary for each year, taken out of the produce and revenue which may belong to us in said Province, with the understanding, that there being none such, we shall be under no obligation to cause any portion of said salary to be paid to you; and to this effect we will order the title and the necessary warrant to be forwarded to you. Therefore, in observance and fulfilment of said ordinance, and the chapter mentioned above, it is our will and pleasure, in virtue of these presents, that from the present moment and for the future, and for the whole term of your natural life, you be our Governor and Captain General of said Province of Costa Rica, and of all the other lands and provinces that are included in it, which is, from the North to the South Sea in breadth, and in length, from the confines of Nicaragua, on the side of Nicoya, straightforward to the Valleys of Chiriqui, reaching the Province of Veragua on the South, and on the North, from the mouths of the Desaguadero (the outlet) which is on the side of Nicaragua, all the land running along, until reaching the Province of Veragua; and that after your death, said government and Captain Generalship be held by your son or heir, or any person you may name to that effect, according to, and after the manner you may have held and shall hold the same; and that you will administer our civil and criminal laws and have jurisdiction over the courts of justice which shall be found in said Province of Costa Rica, and the lands and population specified above; and by this our letter, *we order* the councils, justices, municipal authorities, gentlemen, squires, officials, and all good men, of all cities, towns, and places that may be found in said Prov-

incc, lands and population, as above specified, and our officers, and other persons that may reside there or shall reside in future, that as soon as they shall have been required, in virtue of this our letter, without any further delay or demurrage, or consultation, without hoping or expecting another letter from us, nor second mandate, or third injunction, they will take and receive from you, said Captain Diego de Artieda, and after you, from your son or heir, or from any person you shall name, the oath and other formalities prescribed by law, which may be required in such case, and this you must do, and the same having been done both by yourself and them, they shall hold, receive, and consider you as our Governor and Captain General of said Province of Costa Rica and the population thereof; and they shall freely allow and consent that you and they, use and exercise said offices, and fulfil and execute our law, either personally or by means of your alcaides, lieutenants, and theirs, whom you and your successors may remove and depose, every time and whenever our service and the execution of our law may require, and substitute others in their places; and to hear, despatch and determine all suits and causes, both civil and criminal, which may hereafter be instituted in said Province and lands above specified, and settlements that are inhabited or about to be inhabited; both among the people that may be found there, and the natives, and among those that may come and settle there hereafter, and you and your said son or heir or the person you may name for said government, and your aforesaid Alcaides and Lieutenants may levy the taxes annexed and appertaining to said offices; and investigate fully all cases of rights, precedents, and everything else annexed to and concerning said offices; and in order that you may perform and exercise said functions, and execute our law, all must conform to you in their persons and property, and give and cause to be given to you, all protection and assistance that you shall ask of them, and stand in need of; and they shall respect and obey you, in everything, and fulfil your mandates, and those of your said Lieutenants; and in regard to this, nor any portion thereof, they shall not offer or allow to be offered you any impediment or obstacle; for we, by these presents, do confirm you and consider you as confirmed in said offices, and to the use and exercise of the same: and we give you power and authority, as well as to your said son or heir, or person that you may name, and to your said Lieutenants and theirs, to use and exercise the same, in case that any of them should refuse to accept you in said offices; and by this our letter, we command all and every person that have, or should have possession of the rods of our authority in said province or lands, that as soon as they shall be required by you, said Captain Diego de Artieda, they will give and deliver the same into your hands, and that they shall

not make use of it without your permission and special command : and after you, to your said son, or heir, or the person you may name to that effect, under the penalty which all persons exercising any public and royal office, without authority, incur and are liable to : because we by these presents, do suspend and have suspended them ; and moreover, with regard to the fines belonging to our exchequer, which you or your Alcaldes and Lieutenants may impose, you will collect and cause the same to be collected and to be given and delivered to the treasurer of said province, and we command, moreover, that if you, said Captain Diego de Artieda, and after you, the person who is to succeed to said Government, should deem it advisable for our service and the establishment of our justice, that any person or persons now being in the Province, or hereafter going to reside in it, should depart therefrom, and not remain in it, nor enter the same, but that they should come and appear before us, that you may order them to do so, in our name, and you shall compel them to leave conformably to what the royal ordinance on the subject does prescribe, giving to the person thus expelled, the reason for expelling him, and should you consider the reason to be a secret one, the same to be delivered sealed, a duplicate of which, to be forwarded to us by you, through another channel, in order that we may be informed of the fact ; but you must bear in mind, that when you shall think it necessary to expel any one, it must not be without good cause, to which effect, and for the exercise of said offices, we give you power and authority, with all things, incident, dependent, annexed and connected with the same ; and it is our will and pleasure, that you should have and receive for salary yearly, with said Government and Captain Generalship, two thousand ducats, of three hundred and five thousand reals each ; which you will enjoy from the day that you sail from the ports of San Lucar de Barrameda, or city of Cadiz, in pursuit of your journey, forward, during all the time that you hold said Government ; which salary, we command our officers of said province of Costa Rica, and the lands belonging to the same, to give and pay you each year, out of the revenue and profits which may, in any way, belong to us, in said Province and Government ; and there being no revenue nor profits, we will not be obliged to cause any payment to be made to you in the matter ; and it is our will and pleasure, that the same salary, with said Government and Captain Generalship, shall be given and allowed to your said son or heir, or the person you may name, and who shall succeed you in said charge, and that he shall enjoy said salary from the day he is confirmed and begins to perform and exercise said offices, forward, and for all the time he shall perform the same ; and that our said officers accept your receipts, and theirs, which, together with a copy of this, our decree signed by a public

notary, I order that they be admitted and credited to their account for the sums that said officers may have paid and given, agreeably to the same; and neither of you shall act, in any way, contrary to the above. Given at Aranjuez on the 18th of February, 1574—I, the King—by command of His Majesty—Antonio de Eraso—signed by the President of the Council, Juan de Ovando.

The above is literally copied from the document alluded to, preserved in this archive, under my charge. In evidence thereof, I sign these present, in six leaves of the fourth class stamp, every one of them marked with my usual mark; Seville, August 19th, 1850.

(Signed) ANICETO DE LA HIGUERA.

(For searching, drawing this certificate and paper, 73 reals.

D. Manuel de Podio Valero, Chief Clerk of the Government of this Province, and acting Secretary of the same.

I certify that the foregoing document has been issued by the keeper of the general Archives of the Indies in this city, and that the signature which he has affixed to it, is the same he uses in all his writings, and is known as his. And, in subservience of the purposes to be effected, I sign these present, in Seville, the 2d day of September, 1850.

(Signed) MANUEL DE PODIO Y VALERO.

(Signed) [Correct] CAVESTANY.

(One Seal.)

The under Secretary of the Department of the Interior for the Kingdom. I certify, that Don Manuel de Podio y Valero, whose certificate appears above, is Secretary to the Government of the Province of Seville; and that the signature he has affixed to it, is the same he uses in all his writings. In evidence thereof, and in subserviency of the object to be effected, I issue these presents, with the approval of the M. E. Minister of the Interior, in Madrid, the 10th of September, 1850.

(Signed) JUAN DE LA CRUZ OSES.

(Signed) [Correct] SAN LUIS.

(One Seal.)

Don Antonio Caballero, Knight Grand Cross of the Royal American Order of Isabel the Catholic, Commander of the Order of Charles III, a Knight of the renowned Military Order of San Juan de Jerusalém, Commander of the Legion of Honor of France, etc., Secretary to Her Majesty, with privilege to authenticate Royal Decrees, and under-Secretary of State, etc., etc.,

I certify, that Don Juan de la Cruz Oses, by whom the foregoing document is authenticated, is under-Secretary of the Department of the Interior for the Kingdom, and that the signature affixed at the end, is his: In evidence thereof, I have given these present, in Madrid, on the 12th of September, 1850.

(Signed)

ANTONIO CABALLERO.

(One Seal.)

COSTA RICA AND NICARAGUA.

APPENDIX.

The present Republic of Costa Rica is composed of the ancient Province of the same name, and of a District called Guanacaste or Nicoya, formerly belonging to the Province of Nicaragua.

What was the extension of Costa Rica in old times, up to the date of the independence of the mother country, is shown in the charters granted to Gutierrez and to Artieda, which have been inserted in full in the preceding pages.

The limits of the District of Nicoya or Guanacaste are described by Juarros, the historian of the country, in the following words: "it is contiguous on the westward to the corregimiento or alcaldia mayor of Sutiava; it is watered on the south by the Pacific ocean; on the north by the Lake of Nicaragua; and it stretches eastward as far as the boundaries of Costa Rica."

Alcedo, in his Geographical Dictionary, published in 1788, describes thus the department of Nicoya:

"A province and alcaldia mayor of the kingdom of Guatemala, in Spanish North America; its boundaries being on the east the province of Costa Rica; on the north the Lake of Nicaragua; on the west and south the Pacific ocean, it is of very small extension; and is considered as a *partido* (district) of the province of Nicaragua; the governor of which, appoints its alcalde mayor as his deputy."

The river La Flor was then the recognised division line between Sutiava and Nicoya, as shown by the land titles of the estates or farms lying on either side of that frontier, and as practically established, from time immemorial, for the local administration of the respective parishes.

How the district of Nicoya came to be dismembered from Nicaragua and annexed to Costa Rica, is easily explained. Three years after the independence (in 1824) the anarchy prevailing in the former and the peaceful condition of things in the latter, induced the inhabitants of the district to put themselves under the protection of the then, newly established State of Costa Rica.

The Federal Congress of Central America, whose authority extended equally over Nicaragua and over Costa Rica, in the exercise of its constitutional powers, approved the annexation by the following decree :

" The President of the Federal Republic of Central America.

" Whereas the Congress (House of Representatives) has passed, and the Senate has confirmed, the following decree :

" The Congress of the Federal Republic of Central America having duly considered (1) the reiterated petitions addressed by the authorities and municipal corporations of the district of Nicoya, praying that this district be dismembered from the State of Nicaragua, and annexed to the State of Costa Rica. (2) The *de facto* union that the people of the same district have actually effected (*b*) with the aforesaid State of Costa Rica, during the disturbances of Nicaragua; and (3) the geographical situation of the above mentioned district, decrees as follows :

" Article 1st. For the present, and until such a day when the demarcation of the territory of each State shall be decided upon, in compliance with the 7th article of the constitution, the district of Nicoya shall continue to be separated from the State of Nicaragua, and incorporated with the State of Costa Rica.

" Article 2d. The aforesaid district shall, in consequence, recognise the authorities of Costa Rica, as its own; and shall have, in the legislature of that State, the representatives it may be entitled to.

" Article 3d. The present decree shall be communicated to the respective legislatures of Nicaragua and Costa Rica.

" To the Senate.

" Issued in Guatemala, on the ninth of December of the year one thousand eight hundred and twenty-five.

" MANUEL FRANCISCO PAVON.

" *President,*

" JOSE FRANCISCO DE CORDOVA.

" *Representative Secretary,*

" MARIANO GALVEZ,

" *Representative Secretary,*

" House of the Senate, Guatemala, 8th March, 1826.

" To the executive.

" MARIANO BELTRANENA,

" JUAN DE LOS SANTOS MADRIZ,

" *Senator Secretary.*

" National Palace, Guatemala, 18th March, 1826.

" Wherefore, let it be executed.

" MANUEL JOSE ARCE,

" By order of the President.

" JUAN FRANCISCO SOSA,

" *Secretary of State in the Department of Internal and External Relations.*"

(b) From 1824.

The foregoing decree was accordingly published, and accepted by all Central America as the law of the land.

When the Central American Union was dissolved in 1840, each State kept the limits it had at that moment. Accordingly, the district of Guanacaste has formed for the last twenty-nine years, and continues to form a part of Costa Rica, the authority of which country is actually established over all the inhabited portion of the district.

Nicaragua, nevertheless, without the least show of reason, disputes to Costa Rica :

- 1stly. The sovereignty over Guanacaste, and over the territory lying on the southern bank of the river San Juan : and
- 2dly. The right to navigate said river and the great lake.

Let the reader take a full view of the case, hear both sides, ponder upon the evidence and facts brought forward and judge for himself.

A pamphlet exclusively devoted to the Nicaragua questions and discussing at length, the rights of Costa Rica, was published by the author of the present memoir about two years ago. It concludes with a summary of the propositions therein demonstrated, which, being always ready to prove, we think it will not be inappropriate to repeat here.

SUMMARY.

We believe we have clearly demonstrated, in the preceding pages—

1stly. That Guanacaste belongs to Costa Rica :

By the free will of the people of that district.

By the resolution of the Federal Congress.

By an undisturbed possession during 29 years.

By the cession of Spain in favor of Costa Rica.

By the payment of its share in the foreign debt by Costa Rica.

By the liability for its share in the colonial domestic debt, which Costa Rica has taken upon herself.

2dly. That Guanacaste belonged to the *province*, but never to the *State* or *Republic* of Nicaragua.

3dly. That when the Federation, now extinct, of Central America

